THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

LAFAYETTE CITY CENTER
2 AVENUE DE LAFAYETTE
BOSTON, MA 02111
Telephone: (617) 626-7132
Fax: (617) 626-7157
efile: EFileDLR@mass.gov
www.mass.gov/dlr

MAURA HEALEY
GOVERNOR
KIMBERLEY DRISCOLL
LIEUTENANT GOVERNOR
PHILIP T. ROBERTS
DIRECTOR

COMMONWEALTH EMPLOYMENT RELATIONS BOARD
LAN T. KANTANY
CHAIR
KELLY B. STRONG
MEMBER
VICTORIA B. CALDWELL
MEMBER

COMMONWEALTH EMPLOYMENT RELATIONS BOARD
STATEMENT REGARDING THE USE OF ARTIFICIAL INTELLIGENCE

After observing multiple suspected and confirmed uses of generative artificial intelligence (AI) by attorneys, representatives and self-represented parties in filings before the Commonwealth Employment Relations Board (Board), the Board issues this statement as guidance to parties regarding the use of AI.

Generative AI is artificial intelligence that is capable of creating new content (including but not limited to text, images, other multimedia) in response to a question or prompt by learning from a large set of examples.[1] AI tools are known to "hallucinate" case citations and statements of law, a common phenomenon in which AI generates fabricated legal authorities[2] due to its limitations as a language model that is merely trained to predict the most likely next word, not conduct legal research or interpret case law. In recent years, courts and other quasi-judicial agencies, including the Board, have been plagued with parties who have misused AI.[3] Examples of such misuse include citing non-existent cases, quotations, and statements of law.

---

[1] Massachusetts law about artificial intelligence, https://www.mass.gov/info-details/massachusetts-law-about-artificial-intelligence (last accessed on September 3, 2026).

[2] Fabricated legal authorities are sometimes also referred to as "ghost citations."

[3] See, e.g., Dastou v. Holmes, No. 2381-CV-02212, 2025 WL 1907624 (Middlesex Sup. Ct. June 25, 2025) (Goldenberg, J., Findings, Rulings, and Order Imposing Sanctions); Kaufman v. Upton, No. CV 25-11550-FDS, 2026 WL 156366, at *1 (D. Mass. Jan. 21, 2026). See also, Two Years of Fake Cases and the Courts are Ratcheting up the Sanctions, Heather L. LaVigne, Massachusetts Board of Bar Overseers, Articles on Ethics, https://www.massbbo.org/s/articles-on-ethics (Aug. 22, 2025) (last accessed on August 31, 2026); The Wild West of Artificial Intelligence: Ethical Considerations for the Use of A.I. in the Practice of Law, Afton Pavletic, Massachusetts Board of Bar Overseers, Articles on Ethics, https://www.massbbo.org/s/articles-on-ethics (Jan. 5, 2024) (last accessed on August 31, 2026).

The Board does not discourage the use of AI. However, all parties, including self-represented parties, and attorneys before the Department of Labor Relations (DLR) and the Board must not use the results of an AI tool in support of their filings and arguments at the DLR and the Board without checking the veracity of the case law citations, quotations, and the statements of law purportedly from such cases. As the National Labor Relations Board (NLRB) noted in a recent decision, ghost citations purporting to be Board decisions and citations that do not stand for the proposition asserted improperly invoke the authority of the Board for propositions it does not endorse.[4] In addition, a party's misuse of AI wastes the Board's resources by requiring it to spend countless hours searching for cases, quotations, and legal propositions that do not exist. Such conduct may demonstrate a party's disregard for the agency's processes.

The Board may deny an appeal, strike portions of a brief, and take any other action it deems appropriate if it determines that a party misused AI tools in this manner. We note that lawyers have a duty to provide competent representation of their clients and demonstrate candor towards the tribunal which may be violated if a lawyer cites hallucinated cases and statements of law. Mass. R. Prof. Conduct 1.1 & 3.3.[5] Consequently, if the Board determines that a lawyer has misused AI in a filing before the DLR or the Board, the Board may refer the lawyer to the Massachusetts Board of Bar Overseers, an independent administrative body that investigates and evaluates complaints against attorneys.[6] Supreme Judicial Court Rule 4:01; Rules of the Board of Bar Overseers.

Issued September 3, 2026

[4] See American Backflow & Fire Prevention, Inc., 375 NLRB No. 31 (August 25, 2026).

[5] A "tribunal" includes "a court…[or] administrative agency or other body acting in an adjudicative capacity" such as the Board. Mass. R. Prof. Conduct 1.0.

[6] For example, in one instance, we have referred an attorney to the Board of Bar Overseers, to determine what violations of the Massachusetts Professional Rules occurred and what discipline may be warranted for the attorney's conduct, where the Board had confirmed that the attorney representing a party in an appeal to the Board misused AI and cited several nonexistent cases and statements of law.